



31 JUL 2006

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In re Application of :
McEVOY *et al* :
U.S. Application No.: 10/547,065 :
PCT No.: PCT/IE04/00028 :
Int. Filing Date: 27 February 2004 :
Priority Date: 28 February 2003 :
Attorney Docket No.: 05-693 :
For: OPTICAL CO₂ AND COMBINED O₂/CO₂ :
SENSORS :

**DECISION ON
PAPERS FILED
UNDER 37 CFR 1.42**

This is a decision on the declaration originally filed on 06 February 2006 and then modified on 01 June 2006. These papers have been treated as a petition under 37 CFR 1.42. No fee is required.

BACKGROUND

On 12 December 2005, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath/declaration in compliance with 37 CFR 1.497(a) and (b) must be provided. Applicants were given two months to respond.

On 06 February 2006, applicants submitted a declaration signed by three of the four named inventors and the legal representative of a deceased inventor.

On 01 June 2006, applicants submitted via facsimile another declaration signed by three of the four named inventors and the legal representative of the deceased inventor.

DISCUSSION

37 CFR 1.42 *When the Inventor is Dead*, states, in part:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

The declaration submitted on 06 February 2006 is not in compliance with 37 CFR 1.497(a) and (b). No information for the deceased inventor or his legal representative was recorded on the declaration as required.

In a telephone call with the undersigned, counsel explained that the last page of the declaration may have been mixed up with the assignment documents. As such, counsel resubmitted the declaration on 01 June 2006.

A review of the declaration filed 01 June 2006 shows that it is in compliance with 37 CFR 1.497(a) and (b). The citizenship, residence and address of all the joint inventors (including the deceased inventor) are listed on the declaration pursuant to 37 CFR 1.497(a)(3) and 37 CFR 1.63(c)(1). The citizenship, residence and address of the legal representative are recorded on the declaration pursuant to 37 CFR 1.497(b)(2).

CONCLUSION

The papers filed under 37 CFR 1.42 are **ACCEPTED**.

Applicants have completed the requirements for acceptance under 35 U.S.C. 371(c). The application has an international filing date of 28 February 2003, under 35 U.S.C. 363 and a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 01 June 2006.

This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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